

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 18, 2022

Lyle W. Cayce
Clerk

No. 20-50885
Summary Calendar

DAVID ROY HUTCHINGS,

Plaintiff—Appellant,

versus

COUNTY OF LLANO, TEXAS; LLANO COUNTY SHERIFF'S OFFICE; 424TH JUDICIAL DISTRICT COURT, LLANO COUNTY, TEXAS; LLANO CENTRAL APPRAISAL DISTRICT; LLANO COUNTY TAX ASSESSOR/COLLECTOR; LLANO INDEPENDENT SCHOOL DISTRICT; LLANO COUNTY EMERGENCY SERVICES; RON CUNNINGHAM, *Llano County Judge*; JUDGE EVAN STUBBS, *Llano County*; BILL BLACKBURN, *Sheriff of the Llano County Sheriff's Office*; SCOTT DUDLEY, *Llano Central Appraisal District*; KRIS FOGELBERG, *Officer in the Llano County Tax Assessor/Collector's Office*; MAC EDWARDS, *Officer/Superintendent of the Llano ISD*; GILBERT BENNETT, *Officer of Llano County Emergency Services*; JOYCE GILLOW,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:20-CV-308

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

No. 20-50885

PER CURIAM:

David Roy Hutchings, proceeding pro se, appeals the dismissal of his civil lawsuit for lack of subject matter jurisdiction. “This Court must examine the basis of its jurisdiction, on its own motion, if necessary.” *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is a jurisdictional prerequisite when, as herein, the time limit is set by statute. *See Hamer v. Neighborhood Hous. Servs. of Chi.*, 138 S. Ct. 13, 16-17, 21 (2017); *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

Hutchings filed a notice of appeal on October 15, 2020, outside of the 30-day window for filing a timely notice of appeal. *See* FED. R. APP. P. 4(a)(1)(A). We construe his notice of appeal, which asserted reasons for his untimely filing, as a motion under Federal Rule of Appellate Procedure 4(a)(5)(A) to extend the time to file a notice of appeal.

Accordingly, this case is REMANDED to the district court for the limited purpose of ruling on this motion and determining whether there is excusable neglect or good cause to warrant an extension. Upon making this finding, the district court shall return the case to this court for dismissal or further proceedings, as may be appropriate.